

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KONINKLIJKE PHILIPS ELECTRONICS
N.V. and U.S. PHILIPS CORPORATION,

Plaintiffs,

V.

CINRAM, et al.,

THE ADS GROUP, et al..

ENTERTAINMENT DISTRIBUTION
COMPANY (USA) LLC, et al., and

OPTICAL EXPERTS MANUFACTURING
INC., et al.

Defendants.

Civil Action Nos.

08CV0515 (RGS)

08CV4068 (RGS)

08CV4070 (RGS)

08CV4071 (RGS)

ECF Case

**DEFENDANTS' LIST OF CLAIM TERMS REQUIRING CONSTRUCTION AND
PROPOSED CONSTRUCTION**

Pursuant to Local Rule 16.6 and the Court's May 29, 2009 Scheduling Order, Defendants submit their claim terms requiring construction and their proposed construction regarding claims 1-5 of U.S. Patent 5,068,846 (the '846 Patent"). Defendants reserve the right to propose alternative claim constructions and to challenge Plaintiffs' proposed claim constructions in the *Markman* hearing process provided in this action.

Prior art, whether or not now known to Defendants, may become relevant depending on positions that Plaintiffs assert and may affect Defendants' proposed claim constructions and terms requiring construction. Defendants' ongoing investigations also

may uncover additional claim terms requiring construction, and may alter Defendants' proposed claim construction. Defendants reserve their right, as may be provided in Local Rule 16.6 or otherwise allowed by the Court, to modify this list of claim terms requiring construction, as well as their proposed construction, including without limitation, by adding or withdrawing claim terms requiring construction and/or modifying Defendants' proposed claim construction.

**Defendants' Proposed Constructions For Claim Terms
In Claims 1-5 Of The '846 Patent**

<u>Claim term Requiring Construction</u>	<u>Defendants' Proposed construction</u>
"Non-transmissive"	Does not transmit radiation such as light. For example, light can not be seen through the disc.
"Optical structure"	Tracks of spaced-apart, deliberately made depressions into the planar upper surface of the radiation-transmitting substrate, plus a reflective layer over the tracks.
"Intermediate areas"	Track lengths that have no deliberate dips or dimples.
"Additional layer"	A layer that is above the optical structure and through which radiation such as light does not pass.
"Disc-shaped, radiation transmitting substrate"	A disc base that transmits radiation such as light.
"Planar surfaces"	The flat top and bottom of the substrate.
"Tracks"	Rings or a spiral of spaced-apart, deliberate dips or dimples in the flat top of the substrate.
"Depressions"	Deliberate dips or dimples into the flat top of the substrate.
"Beam of radiation"	A beam of radiation such as light that enters the substrate from below.
"Radiation reflecting"	Reflects radiation such as light.
"Modulated radiation"	Radiation such as light that comes from below and passes through the depressions and intermediate areas.

Date: August 28, 2009

Respectfully submitted,

/s/ Ivan Kavrukov

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of August, 2009, a copy of the foregoing DEFENDANTS' LIST OF CLAIM TERMS REQUIRING CONSTRUCTION AND PROPOSED CONSTRUCTION was served by email and first class mail, postage pre-paid, on the following attorneys for plaintiffs, addressed as follows:

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